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Commissioner for Patents
PO Box 1450
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Art Unit 1609

Attn: Mail Stop Amendment

Re: U.S. Utility Patent Application
Application No. 10/564,511; Filed: July 3, 2006
For: **Hetaryl-Substituted Pyrazolidindione Derivatives with Pesticidal Characteristics**
Inventors: FISCHER *et al.*
Our Ref: 2400.0170000/VLC/CMB

Sir:

Transmitted herewith for appropriate action are the following documents:

1. Amendment and Reply to Restriction Requirement; and
2. One (1) return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier.

In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

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VLC/CMB:krh
Enclosures

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

FISCHER *et al.*

Appl. No.: 10/564,511

(U.S. National Phase of PCT/EP04/07665)

Int'l Filing Date: July 12, 2004

For: **Hetaryl-Substituted
Pirazolidindione Derivatives with
Pesticidal Characteristics**

Confirmation No.: 3449

Art Unit: 1609

Examiner: Havlin, Robert H.

Atty. Docket: 2400.0170000/VLC/CMB

Amendment and Reply to Restriction Requirement

Mail Stop PCT

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated May 30, 2007, requesting an election of one invention to prosecute in the above-referenced patent application, Applicant hereby provisionally elects to prosecute the invention of Group I, represented by claims 1-6 and 13 directed to a compound of Formula I.

The Office has also required Applicant to elect a single species for search purposes. Applicants provisionally elect compound I-3-a-1, shown on page 42, column 1, paragraph [0524] of the published application.

This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

This election is made **with** traverse.

This application is a National Phase Entry Under 35 U.S.C. § 371 and, as such, PCT Rule 13 requiring unity of invention applies. Title 37 of the Code of Federal Regulations states:

(b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

(1) A product and a process specially adapted for the manufacture of said product; or

(2) *A product and a process of use of said product;*

37 C.F.R. § 1.475 (b)(1)(2) (emphasis added).

The claims of Group I identified by the Office are directed to products, i.e., the compounds of claims 1-6 and 13. The claims of Group VII (claims 14 and 16) identified by the Office are directed to processes of use of the product, i.e., a method of controlling animal pests and/or unwanted vegetation comprising allowing compound of the formula (I) as claimed on claim 2 to act on the vegetation, the pests and/or their habitat. Groups I and VII therefore are related as products and processes for using such products, respectively. As noted, 37 C.F.R. § 1.475 (b)(2) states that a national stage application containing claims to a product and a process of use of said product will be considered to have unity of invention. Applicants therefore respectfully assert that the Groups I and VII share unity of invention and the Restriction Requirement is improper.

Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

Amendments to the Specification begin on page 4 of this paper.

Amendments to the Claims are reflected in the listing of claims which begins on page 5 of this paper.

Remarks and Arguments begin on page 35 of this paper.

It is not believed that extensions of time or fees for net addition of claims are required beyond those that may otherwise be provided for in documents accompanying

this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to our Deposit Account No. 19-0036.